REMARKS/ARGUMENTS

Claims 1-8 and 10 are pending. Claim 9 has been cancelled without prejudice as it has been incorporated into claim 1.

In this Amendment, Applicants have amended claims 1, 4, 6-7, and 10 and cancelled claim 9 and non-method claims 11-30 from further consideration in this application. Applicants are not conceding that the subject matter encompassed by claims 1-30 prior to this Amendment is not patentable over the art cited by the Examiner. Claims 1, 4, 6-7, and 10 were amended and claims 9 and 11-30 were cancelled in this Amendment solely to facilitate expeditious prosecution of the pending claims. Applicants respectfully reserve the right to pursue claims, including the subject matter encompassed by claims 1-30 as presented prior to this Amendment and additional claims, in one or more continuing applications.

Claims 1, 9-11, 19-21, and 29-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Tabuchi (US 2003/0037117). Applicants respectfully traverse, but, in order to expedite prosecution, Applicants have amended certain claims. Claims 11, 19-21, and 29-30 have been cancelled, and the rejection is moot as to these cancelled claims.

Anticipation requires that the identical invention must be shown in a single reference in as complete detail as is contained in the claims. Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicants' Specification, paragraph 2, describes that, Since the priority assigned to each request is used by a resource manager at the primary and secondary storage subsystems to govern how resources (e.g., processor power for processing the I/O requests, memory for storing data, and hardware to perform data movement) should be allocated to execute a request, *if the same request is processed in the primary and secondary storage subsystems with different priorities, the resources in both the primary may not be efficiently managed and can cause resource constraints*.

The Tabuchi patent application does not address this problem. Instead, the Tabuchi patent application describes that, when generating the processing request, the processing request source adds a priority, and the distributor analyzes the priority added to the processing request and stores a high-priority processing request in the priority queue and a low-priority processing

request in the normal queue (paragraph 36). The Tabuchi patent application also describes that the processing request distributor determines the priority of each processing request on the basis of priority data added to the processing request and a priority rule stored in the priority rule storage unit and distributes the processing request to either queue on the basis of the determination (paragraph 54).

Amended claim 1 describes, under control of a primary control unit, receiving a request to manipulate data; determining a type of the request, wherein the type of the request includes a synchronous copy command, an asynchronous copy command, and an establish with copy command (e.g., Applicants' Specification, paragraph 37); *assigning a priority to the request based on the type of the request*; and sending a command to a secondary control unit, *wherein the command includes the request and the assigned priority, wherein the primary control unit and the secondary control unit allocate resources to handle the request based on the assigned priority* (e.g., Applicants' Specification, paragraph 46).

The Tabuchi patent application mentions adding a priority (paragraph 36), but the Tabuchi patent application does not anticipate assigning a priority to the request based on the type of the request, wherein the type of the request includes a synchronous copy command, an asynchronous copy command, and an establish with copy command.

The Tabuchi patent application also describes that the processing request distributor determines the priority of each processing request on the basis of priority data added to the processing request and a priority rule stored in the priority rule storage unit and distributes the processing request to either queue on the basis of the determination (paragraph 54). Such a determination of priority does not anticipate assigning a priority to the request based on the type of the request, wherein the type of the request includes a synchronous copy command, an asynchronous copy command, and an establish with copy command.

Moreover, the Tabuchi patent application in paragraph 54 describes that the processing request distributor distributes a processing request output from the application program to either the priority queue or normal queue. Distributing a processing request to a queue does not anticipate sending a command to a secondary control unit, *wherein the command includes the request and the assigned priority, wherein the primary control unit and the secondary control unit allocate resources to handle the request based on the assigned priority*.

Thus, amended claim 1 is not anticipated by the Tabuchi patent application.

Dependent claim 10 incorporates the language of independent claim 1 and adds additional novel elements. Therefore, dependent claim 10 is not anticipated by the Tabuchi patent application for at least the same reasons as were discussed with respect to claim 1.

Claims 2-6, 12-16, and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tabuchi in view of West et al (US 6,912,629). Applicants respectfully traverse, but, in order to expedite prosecution, Applicants have amended certain claims. Claims 12-16, and 22-26 have been cancelled, and the rejection is moot as to these cancelled claims.

Some of the subject matter of claim 7 has been incorporated into claim 6, and so the rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over Tabuchi in view of Meaney et al. (US 5,564,062) will be addressed with reference to the rejection of claim 6.

The Examiner submits that the West patent describes PPRC, extended copying, and asynchronous copying (page 4 of Office Action). The Tabuchi patent application describes that the processing request distributor *determines the priority of each processing request on the basis of priority data added to the processing request and a priority rule* stored in the priority rule storage unit and distributes the processing request to either queue on the basis of the determination (paragraph 54). Such a determination of priority teaches away from assigning the claimed priorities based on the specific type of request as claimed in claims 2-5.

Amended claim 6 describes that the request is issued with a synchronous Peer-to-Peer Remote Copy command and further comprising: receiving a host priority with the request; and mapping the host priority to a priority in a high priority range having multiple priority values based on the host priority, pending Input/Output (I/O) requests, and available resources (e.g., Applicants' Specification, paragraph 41). For example, Applicants' Specification, paragraph 41, describes that the priority assignment process would map *any I/O request from the host* into the high priority range. Applicants' Specification, paragraph 41 describes an example in which, if an establish with copy command was being performed for data that the host I/O request was attempting to update, that copy command would have to be completed before the host I/O request is processed, and, in this case, the host I/O request may be assigned a priority of 3. The Tabuchi patent application does not teach or suggest the subject matter of amended claim 6.

Moreover, Applicants respect fully submit that the West patent does not cure the defects of the Tabuchi patent application. For example, the West patent does not teach or suggest the

subject matter of amended claim 1. Therefore, amended claim 1 is not taught or suggested by the Tabuchi patent application or the Meaney patent, either alone or in combination.

Dependent claims 2-6 each incorporate the language of independent claim 1 and add additional novel elements. Therefore, dependent claims 2-6 are not taught or suggested by the Tabuchi patent application or the Meaney patent, either alone or in combination, for at least the same reasons as were discussed with respect to claim 1.

Claims 7-18, 17-18, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tabuchi in view of Meaney et al. (US 5,564,062) will be addressed here). Applicants respectfully traverse. Claims 17-18 and 27-28 have been cancelled, and the rejection is moot as to these cancelled claims.

Applicants respectfully submit that the Meaney patent does not cure the defects of the Tabuchi patent application. For example, the Meaney patent does not teach or suggest the subject matter of amended claim 1. Therefore, amended claim 1 is not taught or suggested by the Tabuchi patent application or the Meaney patent, either alone or in combination.

Dependent claims 7-8 incorporate the language of independent claim 1 and add additional novel elements. Therefore, dependent claims 7-8 are not taught or suggested by the Tabuchi patent application or the Meaney patent, either alone or in combination, for at least the same reasons as were discussed with respect to claim 1.

Conclusion

For all the above reasons, Applicants submit that the pending claims are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 09-0449.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

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